

matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission and when good faith requires that a party qualify his answer and deny only a part of the matter, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give a lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or reasonably available to him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may deny the matter or set forth reasons why he cannot admit or deny it.

(3) *Determining sufficiency of answers or objections.* The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the objecting party sustains his burden of showing that the objection is justified, the Administrative Law Judge shall order that an answer be served. If the Administrative Law Judge determines that an answer does not comply with the requirements of this rule, he may order either that the matter is admitted or that an amended answer be served.

(4) *Effect of admission.* Any matter admitted under this rule is conclusively established and may be used at a hearing as against the party who made the admission. However, the Administrative Law Judge may permit withdrawal or amendment when the presentation on the merits of the proceeding will be served thereby and the party who obtains the admission fails to satisfy the Administrative Law Judge that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits.

(f) *Objections to authenticity or admissibility of documents—(1) Identification of documents.* The Administrative Law Judge, acting on his or her own initiative or upon motion by any party, may direct each party to serve upon the other parties, with a copy to the Proceedings Clerk, a list identifying the

documents that it intends to introduce at the hearing and requesting the other parties to file and serve a response disclosing any objection, together with the factual or legal grounds therefor, to the authenticity or admissibility of each document identified on the list. A copy of each document identified on the list shall be served with the request, unless the party being served already has the document in his possession or has reasonably ready access to it.

(2) *Objections to authenticity or admissibility.* Within 20 days after service or at such other time as may be designated by the Administrative Law Judge, each party upon whom the list described in paragraph (f)(1) of this section was served shall file a response disclosing any objection, together with the factual or legal grounds therefor, to the authenticity or admissibility of each document identified on the list. Except for relevance, waste of time or needless presentation of cumulative evidence, all objections not raised may be deemed waived.

(3) *Rulings on objections.* In his or her discretion, the Administrative Law Judge may treat as a motion in limine any list served by a party pursuant to paragraph (f)(1) of this section, where any other party has filed a response objecting to the authenticity or the admissibility on any item listed. In that event, after affording the parties an opportunity to file briefs containing arguments on the motion to the degree necessary for a decision, the ALJ may rule on any objection to the authenticity or admissibility of any document identified on the list in advance of trial, to the extent appropriate.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54802, Oct. 26, 1995; 63 FR 55792, Oct. 19, 1998; 63 FR 68829, Dec. 14, 1998]

#### § 10.43 Stipulations.

The parties may by stipulation in writing at any stage of the proceeding, or orally made at hearing, agree upon any pertinent facts in the proceeding. It is desirable that the facts be thus agreed upon so far as and whenever practicable. Stipulations may be received in evidence at a hearing and when received in evidence shall be binding on the parties thereto.